

It is a storybook tale, but it is a storybook tale that has not yet had the last chapters written. There are going to be a lot of wonderful chapters in the years ahead as he, as a young man, has a long time to serve on the Federal bench.

It will be a wonderful culmination to what has already been a great story and a great career. I stand with Arkansas this evening in pride.

I thank Senator BLANCHE LINCOLN for her cooperation, for her support, and all that she has done over the last year to make tonight's vote possible.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I thank my colleague from Arkansas for those kind words.

I rise to express my gratitude to all of my colleagues tonight for their support of the cloture motion before the Senate this evening of the nomination of Judge Lavinski Smith of Arkansas to fill a vacancy on the Eighth Circuit Court of Appeals.

I am certainly pleased that the majority leader has taken a step which demonstrates a commitment of the Democratic leadership in the Senate to move the nomination process forward and to fulfill our obligation under the Constitution.

As one of those who signed the cloture motion to bring forward Judge Smith's nomination, I am proud of my colleagues for joining in with an excellent vote in supporting this fine Arkansan to the bench.

I want to say a special thanks to the chairman of the Judiciary Committee for his hard work over the last year to reduce the number of judicial vacancies which will ensure our Federal courts can operate efficiently. He has tirelessly worked in the Judiciary Committee to be fair and to be expeditious.

There has certainly been a good deal of heated debate surrounding the pace of judicial confirmations in recent months. However, I can say from personal experience that the chairman has been highly responsive to my inquiries regarding this nomination. I am grateful for his efforts and those of the committee staff in trying to move the process forward expeditiously and fairly.

I also thank my colleague, Senator HUTCHINSON from Arkansas, for his work in this arena.

For the benefit of my colleagues who are not familiar with Judge Smith, I am pleased to offer a few words of introduction.

As my colleague from Arkansas mentioned, Lavinski Smith is a lifelong resident of Hope, Arkansas, as many people from Arkansas have been recognized being from Hope. After graduating from high school, Judge Smith moved north to Fayetteville, where he received both his BA and JD from the University of Arkansas in Fayetteville.

Since that time, Judge Smith has enjoyed an impressive career as a prac-

ticing attorney, as my colleague mentioned, with great service through the legal services to the indigent, a State supreme court judge, a professor, and, most recently, a member of the Arkansas Public Service Commission.

This would be an impressive list of accomplishments for anyone, but at the age of 43, Judge Smith's record is a good indication that he has many years of productive service in his future.

Since President Bush announced the appointment of Judge Smith last year, I have heard from dozens of Arkansans from across the political spectrum who support his nomination. In fact, my support for Judge Smith's nomination is based in large part on the enthusiastic endorsement he has received from those who know him the best: his colleagues and friends who have firsthand knowledge of his professional and personal attributes, those who have worked with him in the legal field who have sent their recommendations to me.

Those who have indicated strong support for Judge Smith in Arkansas include Arkansas supreme court chief justice "Dub" Arnold and Arkansas NAACP president Dale Charles. In addition, I believe it is important to note that Judge Smith received a unanimous "qualified" rating for this position by the ABA Standing Committee on the Federal Judiciary.

Even though Judge Smith and I may not agree on every issue, that is not the test I apply to determine an individual's fitness for the Federal judiciary. I evaluate judicial nominees based on skill, experience, and ability to understand and apply established precedent, not on any one particular point of view a nominee may hold. Fundamentally, I am interested in knowing that a nominee can fulfill his responsibility under the Constitution in a court of law.

I am satisfied that Judge Smith has met that standard, and I, therefore, thank my colleagues for supporting his nomination and the cloture motion to move that forward.

The PRESIDING OFFICER. The majority leader.

PASSAGE OF S. 2673

Mr. DASCHLE. I thank all of my colleagues for the tremendous work done in the past week. I especially compliment the distinguished Senator from Maryland, the chairman of the Banking Committee, for the extraordinary leadership he has shown in getting us to this point. I am sure there were few who have ever guessed this could have passed so overwhelmingly as it did tonight.

That is the accounting legislation. I am very grateful to all who had a significant role to play. I thank the staff of the Banking Committee and so many of my colleagues. I also acknowledge the fine work done by Senator LEAHY on the enforcement aspects of this legislation.

The combination of the contribution made by the Judiciary Committee,

along with the Banking Committee, makes this a historic moment for the Senate, a historic moment for corporate governance, and a real recognition that at long last we are going to be rebuilding the confidence and trust we need in our free enterprise system.

We made a contribution in that regard today. I am very hopeful we can get this work done very soon.

It would be my hope, given the President's support for the Sarbanes bill, and Speaker HASTERT's support, as he indicated just last week, that the House consider taking up the Sarbanes bill and passing it free-standing so we could send it directly to the President in time to afford the President the opportunity to sign it very quickly. That would be the quickest way, and given the broad bipartisan support this legislation now enjoys, and given Speaker HASTERT's support for the legislation, I would think this would be a tremendous opportunity to demonstrate in a bipartisan way how quickly we can respond as we did today. But more than how quickly, how effectively we can respond to the needs of our Nation when it comes to restoring that confidence.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Motion To Proceed

Mr. DASCHLE. Having disposed of the banking legislation, it is now our intent to turn to the whole issue of prescription drugs. We will deal with both cost containment as well as Medicare benefits. The bill passed out of the Labor Committee, S. 812, Calendar No. 491, will be the vehicle for our debate.

It is my intention now to ask unanimous consent the Senate proceed to the consideration of Calendar No. 491, S. 812, to provide greater access to affordable pharmaceuticals at 10:30 a.m., Tuesday, July 16.

Mr. GREGG. This bill was reported out of the committee on which I am ranking member. At the time it was reported out, which was last Thursday—so it has been a very quick turnaround and no report has been filed on the bill—there was an understanding within the committee that there would be two issues resolved before it came to the floor. One involved bioequivalency and the other involved the 45-day rule.

There are other issues with the bill. There are other issues which may require further work, but those two issues need to be resolved before this bill comes to the floor. As I believe was the understanding when the bill was passed out of committee, it would be passed with those being resolved before it got to the floor.

I understand it is being moved to the floor quickly to be the vehicle addressing the other issues involved in drug coverage.

The bill itself has some very strong points in it; I have drafted a fair amount of it so I recognize that. But at this time I have to object to the motion to proceed.

The PRESIDING OFFICER. Objection has been heard.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I am happy to yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in regard to the language to which the Senator has referred on the question of the bioequivalence, a whole new section was added, subsection (C) of section 7, dealing with bioequivalency. It was sent out to the good Senator on Thursday evening.

We had indicated if we did not hear back from the Senator or his staff, we would assume that language reflected what was discussed in the course of the markup. We had similar kinds of clarifications with regard to certain procedures and filings.

As far as we are concerned, at least on our side, these particular provisions have been dealt with in the legislation and we are prepared to move ahead with the consideration.

This is extraordinarily important legislation. It relates to not only the quality of prescription drugs but accessibility and affordability of prescription drugs. We are seeing today the significant abuses of the Hatch-Waxman legislation. If we were able to just go back to the full intent of Hatch-Waxman, conforming with that, this legislation would not be necessary. But it is necessary.

The best estimate is it would save consumers \$71 billion over the period of 10 years. It is very important. We ought to be about it. I hope we can get to the legislation and start debating it.

We had a strong bipartisan vote in the committee, and we are ready to go and consider amendments. If there is further clarification that is necessary, we are glad to consider it, but I regret very much we are going to have to delay legislation which is as important as this to our seniors as well as to other Americans who believe they need to be able to get fairness in the consideration of generic drugs.

The PRESIDING OFFICER. The majority leader.

Mr. GREGG. Will the Senator yield for a question?

Mr. DASCHLE. I think I retain the floor. I will be happy to yield to the Senator from New Hampshire.

Mr. GREGG. Yes. That is why I was asking.

The question is this—rhetorical in nature. Unfortunately, in order to reach an agreement, you have to have both sides agree. Senator FRIST, who is concerned about the bioequivalency, has not agreed to the language. I have not agreed to the 45-day language. I am sure it could be worked out, and worked out rather promptly, so we would not have to go through the exercise of delaying this bill, and I would be happy to do that. But until we have worked out that issue, I have to reserve my rights and object to the proceeding.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, obviously, I am disappointed. I looked at the vote. I think it was 16 to 5—similar in magnitude, on a bipartisan basis, to the Sarbanes bill that passed out of the Banking Committee. We ended up with a unanimous vote on the floor.

I hope we can get the same kind of unanimity ultimately on this legislation. But a 16-to-5 vote would seem to me to indicate very strong bipartisan support for this legislation as well. Senators are welcome to offer amendments. We oftentimes negotiate issues on the floor and accommodate Senators' concerns, both in the managers' amendment as well as in individual votes. So we will certainly have that opportunity once again.

I have no doubt if there is an interest in resolving these outstanding questions, we ought to be able to do so. But we do need to move on. That was my hope, that we could lay the bill down and begin the debate and have these discussions.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I have no choice, of course, but to move to proceed to Calendar No. 491. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the motion to proceed to Calendar No. 491, S. 812, the Greater Access to Affordable Pharmaceuticals Act of 2001:

Senators Harry Reid, Jon Corzine, Byron L. Dorgan, Ron Wyden, Maria Cantwell, Paul Sarbanes, Debbie Stabenow, Dick Durbin, Thomas Carper, Tom Daschle, Jack Reed, Daniel K. Akaka, Kent Conrad, Zell Miller, Charles Schumer, Ernest Hollings, and Hillary Clinton.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I ask unanimous consent that Senators Lincoln and Hutchinson have the opportunity to speak for up to 8 minutes each with respect to the Smith nomination, to appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will include in this part of the RECORD the sections relating to the bioequivalence. It is on page 53. The effect of the section is:

This section shall not be construed to alter the authority of the Secretary of Health and Human Services to regulate biological products under the Food, Drug, and Cosmetics Act. Any such authority shall be exercised under that

Act as in effect on the day before the day of enactment of this Act.

Effectively, we are restating the current law.

I will also have printed in the RECORD the language which was questioned earlier—I think an explanation and how it conforms with what we had agreed to in terms of the exchange.

If it is necessary, we will be glad to work with our friends and colleagues on the other side during the remainder of the evening and certainly tomorrow to try to find out, if this language is not satisfactory, what language would be satisfactory.

We did have areas of differences, but not with regard to these two particular provisions. There was an agreement on it. It was just trying to find the appropriate language which would reflect the opinion of the committee. We believed we had done so, and we are glad to work with our colleagues on the other side. If that is not the case, we are glad to make those adjustments and changes so we can begin the debate on this extremely important piece of legislation.

We recognized when this was introduced—and I give great respect to my friends and colleagues, Senator SCHUMER and Senator MCCAIN, for developing the basic legislation which was the core of the debate we had in our committee—it was modified to try to respond to some of those who had some concerns. We had Senator EDWARDS and Senator COLLINS in a bipartisan way develop an approach which had strong bipartisan support. We had good discussion and debate in our committee on this matter and a strong committee outcome.

This is a very important piece of legislation. It is one which deals, not so much with the availability and the accessibility of drugs but as to the question of whether they are going to be reasonably affordable alternatives to brand name drugs and whether we are going to follow the agreement that was made at the time of the Hatch-Waxman legislation, which was enacted, which really was based upon the idea that we would have new breakthrough drugs rather than rehashing of older drugs.

What we have seen is in recent times those who have the patents are using the Hatch-Waxman legislation in ways that work to the significant disadvantage of the consumers in this country. It is to change those abuses that this legislation has been developed. It is very important. We will continue to work with our colleagues to try to clarify any of the language that needs to be clarified. We look forward to the debate at the earliest possible time.

I thank the majority leader for giving the attention and priority that he has to this legislation. I think for most of us, as we travel around to our constituencies, we find the availability, the accessibility, and the cost of prescription drugs are on the minds of just about every family in this country.

You don't have to be sick, although that is certainly something that every person who is ill understands very well. But it is the total family. So much of the challenge and the burden of health care costs goes to all the members of the family.

As we are particularly in the period of what I consider to be the life-science century where we have enormous opportunities for major breakthroughs and extraordinary kinds of positive impact on the lives of people in this country, we must make sure these prescription drugs and the generics are going to be available and accessible. The faster that we have a chance to engage in this debate and pass this legislation, the better the health of the American people is going to be.

I note on the floor the prime sponsor, the Senator from New York, Mr. SCHUMER. He has probably heard that there was objection to taking up this legislation because of certain language clarifications. We reviewed and put in the RECORD clarifications which, quite frankly, conform to the issues that were raised. They are not areas of difference but areas of clarification. We sent those to our colleagues last Thursday night indicating that we understand they would be satisfactory unless we heard back. We did not hear back until just minutes ago.

We want to work with our colleagues. We certainly invite the Senator who has been such a driving force on this issue. We hope that overnight and certainly in the early morning we could have a clarification which would remove the reasons for not proceeding; that at some time tomorrow we could begin the debate in full and move ahead to considering this legislation.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. KENNEDY. Yes.

Mr. SCHUMER. I thank my colleague from Massachusetts who has been such a great leader on this issue. I guess, as I understand it, our friend from New Hampshire has objected to moving forward.

We have spent a very long time talking about this issue—of course the issue of availability of drugs, and of course the issue of the cost of drugs but even the specifics of the generic drugs.

We had extensive hearings on this bill 10 weeks ago or 8 weeks ago. There has been a great deal of discussion. This is not a last minute something that someone wrote on the back of an envelope and said here, take it. There has been tremendous discussion on this issue. There are differences of opinion. That is fair. That is legitimate. That is why we have a Senate.

But to prevent the bill from moving forward when the cost of drugs goes through the roof, when the people are clamoring for us to bring down those costs, and when there is a proposal that passed in a very bipartisan way in Senator KENNEDY's committee, it just strikes me as missing the forest for the

trees—the forest being the great need to do something and the trees being the details that we should be debating on the floor in open debate.

I will just say to my colleague that I am as disappointed as he is—maybe not quite as disappointed; nobody works harder than he does on bringing these issues to the floor, but almost as much.

Is this something that is brand new? Where do these objections come from? These are issues that we have discussed and agreed on. It is my understanding that the Senator from New Hampshire simply didn't have the votes when he decided not to bring forward his amendments when the committee marked up.

Is that a correct or an unfair characterization?

Mr. KENNEDY. The reason the Senator objects is in behalf of the Senator from Tennessee who wanted clarification in terms of the ability of the FDA to regulate biological products. We have included a new section on page 52. This section shall not be construed to alter the authority of the Secretary to regulate biological products under the FDA act. So we added that just for clarification.

It is difficult for me to understand why that doesn't work.

Mr. HUTCHINSON. Will the Senator yield?

Mr. KENNEDY. I will in just a moment.

Then there was another question with regard to the timing and procedures to be able to bring civil action. We added on page 35 a new section for the Senator from New Hampshire.

As I mentioned earlier, we don't have a difference. We would be glad to work through the evening, if we had the opportunity to proceed to this on tomorrow.

If this language isn't clear—we are not facing a difference on it. What I am troubled by is the fact that there is objection to moving to the legislation and moving to it in a timely way when it is legislation which is of such importance and relevance to every family in this country.

I see my friend from Michigan on the floor, but I will yield to the Senator from Arkansas.

Mr. HUTCHINSON. I ask the Senator from Massachusetts. I pose the question because as a member of the committee and someone who was very glad to join in a positive way the bipartisan vote for the legislation, it was my clear understanding as we came to that decisive vote that a point was reached in working out the two outstanding issues which Senator GREGG mentioned in his objection. There is no desire on anybody's part to slow this legislation down. But it was with the understanding that there would be that agreement.

While it seems the issues are relatively minor and that it can be done in a very expeditious way, the fact is that Senator FRIST and Senator GREGG have not yet signed off on that language.

So I can't stand here and listen to my colleague being characterized as obstructing the progress of this legislation when in fact they want to honor the agreement that was made at the time that bipartisan vote took place.

I ask the chairman if that is his recollection of the vote that occurred.

Mr. KENNEDY. No. The Senator has not understood correctly. I will stand by the record. There was never a conditioning of reporting this out for an agreement. I have been either chairman or ranking member for some period of time. I know those words are stated. But there was never a conditioning of reporting out based upon getting agreement. I would not have accepted that. This is too important. There was not a difference.

You will find that the language we have included with regard to biologics basically is a restatement of what Senator FRIST said. If it isn't, I am glad to make that kind of adjustment. What we did say—as we say in virtually the passage of all legislation—is that we will authorize technical corrections to be made by the staff.

If you have an agreement in principle, you do not have a difference. We have an agreement in principle.

If this language isn't carried forward—and it is language which I believe should be—give us the language, and we will work on it tonight. But I think to delay something that is as important as this is not justified. This subject matter is too important to families in my State, as I am sure it is in Arkansas. That is why I am surprised the Senator from Arkansas is standing with the Senator from New Hampshire and urging delay of this legislation, because it is of such importance. I welcome the fact that he supported it, but we want to get on with this legislation. And I think the sooner we can get on it, the better.

If the Senator wants to work with us and be the agent for the other Senators and work through the evening, we would welcome his intervention in doing that because we want to get on it.

I would be glad to yield to the Senator from Michigan. Then I would be glad to yield the floor and let the Senator speak.

Ms. STABENOW. I thank you the Senator.

First, I commend our chairman, Senator KENNEDY, for his work in bringing this important bill to the floor. I also commend Senator SCHUMER for his leadership.

I say to my friend from Massachusetts, it is my understanding the leader, because of the importance of the issue of not only lowering drug prices for everyone but providing Medicare coverage for prescription drugs, has actually allocated up to 2 weeks on this subject. I would assume we would have ample opportunity to work out any issues and problems that colleagues would have on the other side of the aisle.

But the clock is ticking on the 2 weeks. The sooner we can get to the bill, the sooner we can begin to move through a number of different amendments to be able to get this bill in good shape, to be able to deal with a number of issues, such as those that deal with increasing competition and providing Medicare coverage, and so on.

This is so critical that our leader has, in fact, allocated 2 weeks. So I am very surprised that our colleague from New Hampshire would stop even the beginning of the debate when he knows that it is not a 1-day debate. We are talking about having 2 weeks and as many hours as it takes in that time to be able to work out all of the kinks and to be able to get it right.

I know, coming from Michigan today, working and being in Battle Creek at a senior center and in Kalamazoo at a senior center, that they are watching us very closely. We have had a lot of talk, and if talk bought medicine, people would have a lot of medicine.

It is time to act. I commend the chairman of the committee for acting. I am looking forward to working with him.

Mr. KENNEDY. Mr. President, I will yield the floor in just a moment. I want to be very clear on the RECORD; that is, that the language was provided both to Senator FRIST and Senator GREGG on Thursday afternoon at around 4:15. The first I have heard there was objection to it was 5 minutes before the majority leader's request. I did not hear any objection to it Friday. There was not any objection to it Saturday. There had been no objection to it today, Monday.

It seems to me that if there are objections to it, we ought to be able to clarify the language and move forward it. If people have objections to this legislation, let's hear it. Let's debate it.

I pay special tribute to Senator SCHUMER and Senator MCCAIN. Seniors have been paying too high a price for too long. This is going to make a difference. We have delayed too long in addressing this issue.

So I indicate that we are prepared to work on the language over the evening or tomorrow. But we believe we ought to get about the business of dealing with this legislation.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will be brief.

First, a specific point. One of the objections was on the language for what we call bioequivalence. In other words, what makes the drug the same drug? I am not a member of the committee, but I sat there as Chairman KENNEDY presided. As I recall, there was a consensus on that issue, which was, let us codify what the FDA does now.

That is what the language was supposed to do. There was not supposed to be a change. There was not supposed to be a wrinkle. There was not supposed to be anything different. And now, all of a sudden, we are hearing an objec-

tion based on that provision. I do not quite understand it because there was some discussion early on in the bill that the Senator from Arizona and I introduced about whether bioequivalence was the same. We intended it to be the same, but we were silent. Adding this provision just clarified it.

So there is no new change here, none. To not move forward on the bill on that basis, when there seems to be a complete meeting of the minds of what to do, does not make sense.

The second point is this, and both my colleague from Massachusetts and my able colleague from Michigan, who has been such a leader on this bill, have made it clear: The people are waiting. Every day, every minute, someone—a senior citizen, a family with a child who is ill—approaches the prescription drugstore counter with trepidation wondering what that bill will be.

They want the best drugs for themselves and their loved ones. Yet they are afraid they cannot afford it. They are afraid it means not paying the rent. They are afraid it will mean not buying gasoline for their car.

Here we have a solution. I would not say it is the most breathtaking solution. I would like to see prescription drugs added to Medicare. We are going to have a big fight about that. But it is a solution that makes a real difference, that reduces prices on a large number of drugs, that has some consensus, that does not get into the free market versus price control argument that has plagued us as we have tried to come to some kind of agreement.

So we have a proposal. We are ready to debate it. The majority leader, realizing its importance, has given us plenty of time. And the first thing we hear is objection to moving forward.

Again, as Senator KENNEDY has said, I am willing, as a sponsor of the bill, to be amenable. The more, the merrier. I do not want a partisan victory. I want to get something passed. We have spent a long time trying to work this out, and it is complicated. We know that. But when I hear the first thing done is objection to proceeding—as opposed to somebody calling up the chairman or myself and saying, what did you really mean by this? Shouldn't we dot the i's, cross the t's, and put together an amendment?—I get a little worried.

So I hope this is not an indication of anything in the future. I hope this is an indication that we can try to come together, despite some of our differing views, to work on how to reduce the costs of these wonderful drugs that are so expensive and together bring up a good bill.

With that, Mr. President, I yield the floor.

Mrs. LINCOLN. Mr. President, I rise to applaud the majority leader for his attempt to bring forward this possible solution to help our elderly address the enormous problem that seniors face in drug costs and in getting prescription drug care, to use that bill and that tool of generics and others to try to assist

our seniors in dealing with the phenomenal cost and concerns they have in being able to provide for themselves the prescription drugs they actually need for the quality of life we all know they deserve.

We all have parents and grandparents, we have neighbors and loved ones who are suffering from the unbelievable dealings of the increase in cost of prescription drugs. For us in Arkansas, where we don't have many tools at all; we have lost all of the Medicare+Choice plans that served Arkansas. The last two or three left in December, none of which provided a prescription drug package, which means our seniors in Arkansas are basically subsidizing other seniors across this country in their tax dollars. Other seniors in other areas, where a Medicare+Choice plan fits can actually get a prescription drug package because our seniors are subsidizing that. So our seniors in Arkansas are paying top dollar, more than you or I or anybody else who has insurance or who has a program like Medicare+Choice or something else, a Medigap program that is helping to pay for that, are paying more than anybody else for prescription drugs.

That is unheard of. Sixty percent of our seniors in Arkansas tend to need more prescription drugs because, unfortunately, their availability to health care is less. The other thing is their availability to prescription drugs out in rural areas is a lot more difficult. These are people who need assistance. They don't need, as Senator STABENOW mentioned, a lot more discussion, a lot more talk, and a lot more promises. What they need is action.

Unfortunately, what happened tonight was a roadblock that would prevent the kind of action we need in moving forward. We have 2 weeks to debate and talk about the initiatives here for the generics bill and some of the other proposals for prescription drugs but to move this debate forward. That is what seniors are waiting on; they are waiting on a solution. But more importantly, they are waiting on us to begin the debate. Unfortunately, that is what was stopped tonight.

I hope we can all come together and work out whatever differences they may have found from the committee, a bill that passed out in a bipartisan way, but work those details out, hopefully tonight, so maybe we can bring forward, without having to go through the unusual procedural cloture motion to bring something up, that we can begin the debate in earnest and begin to honestly look at the ways we can help the seniors of the Nation.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCOUNTING REFORM

Mr. BROWNBACK. Mr. President, I wish to address the body on an issue of some significant importance to the country. First, good business was done by the Senate today dealing with the accounting situation, the financial trust crisis that we have going on in our country with some of the heads of corporations. I think we have taken a positive step on dealing with that problem.

NORTH KOREA

Mr. BROWNBACK. I want to address the body quickly and briefly but importantly on what is happening in North Korea and to North Korean refugees coming out of that country.

Prior to the July 4th recess, my colleagues, Senator KENNEDY and Senator ALLEN, and I brought to light the plight of North Korean refugees in a hearing before the Immigration Subcommittee. The hearing capped a month of activity that involved the passage of resolution on North Korean refugees in both the House and the Senate. Both resolutions strongly urged the Chinese government not to repatriate North Korean refugees back to North Korea. The House version passed by 406 to 0 and our resolution passed by unanimous consent on June 19, 2002.

At our hearing, we heard some very moving testimony from Ms. Lee Soon-Ok, a North Korean defector who suffered more than five years in a prison camp. We also heard from Ms. Helie Lee, a Korean American writer whose memoir, *In the Absence of the Sun*, movingly highlighted a largely hidden and painful secret shared by hundreds of thousands of Korean Americans and millions of Koreans—more than 50 years of separation among family members and loved ones since the outbreak of the Korean War. Few other country and its people has suffered as much.

In addition, Mr. President, I urged Secretary Powell in both a formal consultation and by correspondence on the need of our Department of State to allow the processing of North Korean refugees together with the Chinese government and the Beijing office of the United Nations High Commissioner on Refugees.

The plight of North Korean refugees, of course, is merely a symptom of a far more pressing issue—how to deal with one of the most repressive and totalitarian states in the world, the isolated country of North Korea ruled by one man, Kim Jong-il.

Although news regarding the efforts of many in the NGO community and countless others working in North East China have been slowly filtering into the West, the true nature of the North Korean regime is largely hidden and inaccessible.

It was not until the showing of a dramatic video of five members of the Han-mee family being forcibly removed from the Japanese consulate in Beijing that the world began to pay attention. Since then, several other asylum bids have drawn the attention of mainstream media, including the horrifying story of baby-killings in North Korean prison camps reported in the *New York Times* and based on the testimony of Ms. Soon Ok Lee, who, as I indicated before, testified at our hearing.

In June 2002, ABC Nighttime broadcast a three-part documentary of the North Korean refugee in China by Ms. Kim Jung-eun whose schedule did not permit her to testify before our committee. I was told by ABC News staff that thousands of Americans have responded to the broadcast with e-mails in disbelief and in rage against the North Korean regime. I understand that the three programs drew high response from viewers.

It is estimated that between 2 to 3 million people died of starvation and persecution in North Korea from 1995 through 1998 and that up to up to 300,000 North Korean refugees in China are living a precarious and dangerous life, hiding by day, begging by night, in an effort to avoid being captured and repatriated back to North Korea by Chinese and North Korean agents brazenly operating inside China.

Of the 300,000 refugees, only 518 refugees successfully defected to South Korea this year through June 2002, many of them by taking refuge at foreign missions in Beijing and in Shenyang, China.

These actions by the Chinese are simply unacceptable, not only to basic principles and tenets of international human rights, but also by the fact that China is a signatory of the International Refugees Convention. Hundreds of South Korean, Japanese and western NGO's are working inside China to help the refugees, risking their lives and capture by the Chinese police. A German doctor who also testified before our committee worked in North Korea for a year and a half but was evicted by the North Korean regime for disclosing the tragedies of the NK people. People like him and others on the ground in China and Korea have been some of the most vocal and active in their effort to make the whole world aware of the conditions in North Korea and China. Many NGO's have taken care of refugee families full-time with their own money.

I've met with many of these people, all of whom are now effectively shut down from operating in China. And what they tell me over and over is that they simply cannot not ignore what they saw. All of them said to me that they could not look away and ignore the refugees, many of whom were too scared to even beg for help.

These NGO's from South Korea, Japan, the U.S., France, and Germany, first reported the tragedy of the North Koreans to the outside world. These

NGOs who are in the best position to know report that food aid from South Korea, the U.S., and Japan, simply are not reaching the dying people. As I mentioned in a previous statement, I believe it is absolutely necessary to condition stringent monitoring of the delivery of food aid by NGOs in an effort to determine that they are being distributed appropriately. Much of this aid is apparently being diverted to feed the million-plus North Korean army and to reward the elites and the inner circle around Kim Jong-il in Pyongyang. For this reason, many well-respected NGOs, including Doctors Without Borders have withdrawn from North Korea.

More troubling is that these NGO's have confirmed reports of more than a dozen prison camps in North Korea, where the prisoners are starved, forced to work at hard labor, and tortured to death.

Aside from the troubling refugee issue, we cannot forget that North Korea is a threat to regional and global security. North Korea continues its procurement of materials and components for its ballistic missile programs from foreign sources, especially through North Korean firms based in China. In addition, North Korea has become a "secondary supplier" of missile technology and expertise to several countries in the Middle East, South Asia and North Africa. The CIA's 2001 report assesses that North Korea is capable of producing and delivering via missile warheads or other munitions a variety of chemical agents and possibly some biological.

Furthermore, North Korea refuses to carry out its obligations under the Nuclear Nonproliferation Treaty, NPT and the 1994 Agreed Framework. Initial IAEA, International Atomic Energy Agency, inspections and intelligence reports in the early 1990s triggered concerns regarding a clandestine nuclear weapons program. U.S. and foreign intelligence have concluded that the DPRK government of North Korea probably has sufficient plutonium for 1 to 5 nuclear weapons. Despite its obligations under the NPT and the Agreed Framework, North Korea continues to refuse inspections.

So while it would be reason enough to continue our pressure on North Korea and China for the humanitarian violations alone, there are also the pressing security threats that the current North Korean government poses to U.S. interests which must be dealt with. While refugee and nuclear weapons issues will necessitate very different responses—the thing they share in common is the alarms they raise about ignoring the North Korean problem in all its complexity.

While I am mindful of the diplomatic sensitivities regarding the need to reach out to the North Korean regime, there comes a time when we have to confront the truth and tell the truth. Moreover, reconciliation efforts have yet to yield any results. There was